

FILED & ENTERED

SEP 19 2017

CLERK U.S. BANKRUPTCY COURT
Central District of California
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NOT FOR PUBLICATION

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

BRIAN W. CEBALLOS,

Debtor.

Case No.: 2:17-bk-19374-RK

Chapter 7

**ORDER DENYING DEBTOR'S MOTION TO
CONVERT UNDER 11 U.S.C § 706(a)
WITHOUT PREJUDICE**

Pending before this court is the motion of Debtor Brian W. Ceballos under 11 U.S.C. § 706(a), to convert this Chapter 7 bankruptcy case to one under Chapter 13, Electronic Case Filing No. ("ECF") 19, filed on September 7, 2017. Debtor represents himself.

Debtor filed his motion on Form 1017-1.1.MOTION.DEBTOR.CONVERT, which is an official court form. However, Debtor did not attach any evidence attached in support of the motion, did not file a notice of motion either for hearing or an opportunity to object and request a hearing and did not file any proof of service of the motion showing any service of the motion on the Chapter 7 trustee and creditors as listed on the creditor mailing matrix, and the motion is procedurally defective because Debtor did

1 not do any of these things.

2 Local Bankruptcy Rule 9013-1(c)(3)(A) and (i) requires that factual contentions
3 involved in a motion must be supported by declarations and other written evidence and
4 that such evidence be attached to the motion. Since there is no evidence in support of
5 Debtor's motion, the motion should be denied for lack of supporting evidence under
6 these rules.

7 Federal Rules of Bankruptcy Procedure 2002(a)(4) and 9013 require that Debtor
8 must serve a motion to convert the case to another chapter under the Bankruptcy Code
9 on the Chapter 7 trustee and all creditors, which means service by mail under Federal
10 Rule of Bankruptcy Procedure 2002(a). Debtor did not file a proof of service that he
11 served the motion on the Chapter 7 trustee and all creditors as required by Local
12 Bankruptcy Rule 9013-3.

13 Local Bankruptcy Rule 9013-1 generally requires that a party filing a motion must
14 file a notice of motion which either notices the motion for hearing before the court under
15 Local Bankruptcy Rule 9013-1(c)(2) and (d) or gives parties required to be given notice
16 an opportunity to object to the motion within a limited period of time and to request a
17 hearing on the motion under Local Bankruptcy Rule 9013-1(o). Debtor did not file any
18 notice of motion which is required under these rules.

19 Because the court finds that the motion is procedurally defective due to
20 insufficient notice and service of process, the court rules on the motion on procedural

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1 grounds on the papers without reaching the merits and denies the motion without
2 prejudice, which means that Debtor may refile an amended motion that corrects these
3 problems.

4 IT IS SO ORDERED.

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25 Date: September 19, 2017



Robert Kwan
United States Bankruptcy Judge